

*Bryan Lee Ciyou's*

**APPLICATION**  
**FOR THE**  
**COURT OF APPEALS OF INDIANA**

**PART ONE, Sections 1 - 11**

**1. Contact/General Information:**

**A. Full legal name and any former names.**

My full legal name is Bryan Lee Ciyou. I generally use my full legal name and not just my middle initial "L." I have not used any former names or nicknames.

**B. State the full (use initials for minor children), age, and relationship of each person residing in your household. For each adult living in the household (other than yourself), also state the person's occupation and employer.**

The persons living in my household are my girlfriend/significant other Jocelyn M. Forehand, age 42, and her 4-year-old son, "A.J." F. Jocelyn is Chief Executive Officer of Southside OBGYN, with a primary location at the St. Francis Hospital South Campus Professional Building and a satellite office in Mooresville. In addition, she is president-elect of the Indiana Medical Group Management Association.

**C. Business address, email, and telephone number.**

• **Business address:**

My business offices are located in Downtown Indianapolis in the Chamber of Commerce Building; my office has been located in Indianapolis, Marion County, State of Indiana, since I was admitted to practice in 1994, specifically as follows:

Ciyou & Dixon, P.C.  
The Chamber of Commerce Building  
320 North Meridian Street  
Suite 600  
Indianapolis, IN 46204

- **E-mail:**

My professional email is: [bcyou@ciyoudixonlaw.com](mailto:bcyou@ciyoudixonlaw.com)

- **Telephone:**

My work telephone number is: (317) 972-8000. My work facsimile number is: (317) 955-7100.

**D. Attorney number.**

My attorney number is: 17906-49.

**E. Month and year you were admitted to the Indiana Bar.**

I was sworn into and admitted to the Indiana bar and the Southern and Northern Districts on Oct. 31, 1994.

**a. Indicate current law license status, i.e., active/inactive/retired.**

I am in “Active” status with the Roll of Attorneys in the State of Indiana.

**b. If you are or have been a member of a Bar of any other state, identify that jurisdiction and provide the date(s) of admission and current license status.**

I have not been admitted to any other state or federal circuit. I am admitted to, and have practiced in, the Seventh Circuit Court of Appeals, United States Tax Court, and United States Supreme Court.

**F. Date and place of birth.**

I was born in Indianapolis, Ind., on June 6, 1967.

**G. County of current residence and date you first became a resident.**

In 1993 or 1994, I became, and am, a resident of Marion County.

**2. Secondary Education/Military Experience:**

**A. List all undergraduate colleges and universities you attended. Include the name; dates enrolled; degree or certificate earned; and any academic honors, awards, or scholarships you received and when.**

- **Indiana University, Indianapolis.**

The dates I was enrolled in the Indiana University, Indianapolis undergraduate program are as follows: 1<sup>st</sup> semester 1985-86. 2<sup>nd</sup> semester 1985-86. 1<sup>st</sup> semester 1986-87. 2<sup>nd</sup> semester 1986-87. 1<sup>st</sup> Summer semester 1987. 1<sup>st</sup> semester 1987-88. 1<sup>st</sup> Summer semester 1988. 1<sup>st</sup> semester 1988-89. 2<sup>nd</sup> semester 1988-89. 1<sup>st</sup> Summer semester 1989. 2<sup>nd</sup> Summer semester 1989. 1<sup>st</sup> Semester 1989-90. 2<sup>nd</sup> Semester 1989-90. 1<sup>st</sup> Summer semester 1990. 2<sup>nd</sup> Summer semester 1990. 1<sup>st</sup> Semester 1990-91. 2<sup>nd</sup> Semester 1990-91.

I matriculated in 1991 and earned the Bachelor of Arts degree.

As undergraduate student, I earned a number of academic honors, awards or scholarships:

I completed the honors programs curriculum; this required a minimum of 25 hours of honors classes and course work.

I graduated with distinction, which is based on a high grade-point average.

I was on the Dean's List from Spring 1987 to Spring 1991.

In 1989, I was awarded a University Research Honors Program Grant to study the application of information theory (e.g., raw data communicated) to communication theory (e.g., what is lost in transmission) in the communication process.

From 1989 to 1990, I was vice president of the student body of the Indianapolis Campus, which allowed me to participate as a student representative on the IUPUI Faculty Council and IU Board of Trustees.

From 1989 to 1990, I was the vice president of the Intercollegiate Debate team. I was ranked amongst the best team debaters in the United States.

I was invited into Delta Sigma Rho-Tau Kappa Alpha (Oratory Honors Fraternity) in 1990.

In 1990, I was Indiana University, Indianapolis' candidate for the Rhodes Scholarship. I did not succeed in advancing in the process.

**B. Include with your original application a certified transcript from each school named in Subsection 2A and attach copies of each transcript to each application copy.**

I have included with this application my Indiana University, Indianapolis combined undergraduate and law school transcript. The school is unable to generate separate transcripts. **(Exhibit “2:” Indiana University, Indianapolis Undergraduate and Law School Transcript)**

- C. **If applicable, list any military service. Include the name of the military branch; last rank achieved; and any honors, awards, or commendations received and when. Attach a copy of your Certificate of Release or Discharge from active duty (“DD214” paperwork).**

I was not in the military. This question is not applicable.

**3. Post-Secondary Education:**

- A. **List all law schools, graduate schools, and post-JD programs attended. Include the school name; dates enrolled, degree or certificate earned; class rank; and any academic honors, awards, or scholarships you received and when.**

**Valparaiso University, Indiana.**

I attended my first year of law school at Valparaiso University. I was enrolled from Fall 1991 through Spring 1992. I was in the top 20 students and formally recognized as such after the first semester. I also wrote the honor paper in Torts I. I was invited to law review after my first year.

I did not earn a degree: I transferred to Indiana University School of Law at Indianapolis for my second and third years of law school. I have included with this application my Valparaiso University School of Law transcript, which is transferred onto my Indiana University transcripts. **(Exhibit “3:” Valparaiso (Indiana) Law School Transcript)**

**Indiana University, Robert McKinney School of Law, Indianapolis.**

I was enrolled at the Robert McKinney School of Law from Fall 1992 through Spring 1994. The degree I earned: Doctor of Jurisprudence, *cum laude*.

At the end of my second year, I applied for and was selected as a fellow for the Center for Health Law and Policy; this provided a full academic scholarship for my third year of law school and fellow status at the Center, researching and publishing legal matters in health care. Due to an offer in private practice that could not be deferred, I declined this fellowship.

- B. Include with your original application a certified transcript from each school named in Subsection 3A and attach copies of each transcript to each application copy. (If your Social Security number is on your transcript, redact it before copying).**

As noted *supra*, I have included my Indiana University, Indianapolis combined transcript. **(Exhibit “2”)** This again includes undergraduate and law school, as well as my transfer credits from Valparaiso University School of Law. I have enclosed my certified Valparaiso University School of Law transcript for my first year of law school. **(Exhibit “3”)**

**4. Employment:**

- **Newby, Lewis, Kaminski & Jones.**

I chose Newby, Lewis, Kaminski & Jones, LaPorte, Indiana, from several clerkship offers because this firm had a regional footprint. I had not yet determined in which state I wanted to practice or if I would pursue an LL.M. I was mentored by Edward Volk, partner. I was a law clerk throughout Summer 1992 (the summer between my first year of law school and beginning of my second year). My focus was insurance defense legal research, drafting of motions, pleading, and briefs.

- **Johnson County Prosecutor’s Office.**

On transfer from Valparaiso Law School to Indianapolis, I decided to remain and practice in Indiana. I knew of Lance Hamner’s work in Johnson County, Indiana, which is the county where I was raised. Being a fellow Eagle Scout, I approached him about working as a law clerk in that office because I was considering a public service job and/or one that would make the State of Indiana and the United States a better (safer) place. I was hired as a law clerk. I was mentored by Chief Deputy Lewis Gregory, who is now Greenwood City Court Judge, and by elected Prosecutor Lance Hamner, who is now a Johnson County Superior Court judge. I was a law clerk at the office for Summer 1993. My general area of legal focus was gun law and sex crimes.

- **Buck, Berry, Landau & Breunig/Judith Stimson.**

In my third year of law school, I became a law clerk for attorney Judith Stimson at Buck, Berry, Landau & Breunig. I took this job because families are also a significant part of the legal system and because it is a place where I thought I could make a difference to our society and Indiana. After passing the bar, I became an associate and worked on complex domestic cases, such as those with jurisdictional issues to multiple cases (dissolution, criminal, restraining orders, et cetera).

- **Gannon & Ciyou, P.C. (n/k/a Ciyou & Dixon, P.C.).**

As an associate attorney, I made the contacts and built a rapport with many senior attorneys in several Indianapolis law firms; they encouraged and supported me to start my own firm, provided referrals, and guided me through difficult cases. I did so in order to be able to work in and experience different practice areas of personal interests, including criminal, real estate, personal injury and appeals. Ultimately, as my firm grew, I slowly focused on complex family law and appeals, doing extensive teaching along the way.

Based on a personal interest in firearms, their power, and associated law of constitutional depth, I began to focus on firearms issues. I was instrumental in developing this field of law into a known and cohesive practice area in Indiana and the United States. Presently, I practice firearms law, consult with lawyers and firms facing “gun issues” across the United States, and teach individuals and attorney CLEs across the country.

- **Marion County Public Defender, Appellate Division.**

In 2007, I had the opportunity to do contract work for the Marion County Public Defender Agency and handle major felony criminal appeals, including one double murder case. Because of growth in my practice and desire to teach on a more frequent basis and write (books), I stopped taking contract appeal assignments in 2010.

During my tenure at the Appellate Division, I continued to serve as shareholder and president of Ciyou & Dixon, P.C. I also continued to teach law on an extensive basis, both in CLEs and to all types of citizen groups when requested. Again, my central focus in teaching has been providing education at the practical level to help everyone from lawyers and ordinary citizens understand the law, follow it, or work to effectuate change.

## **5. Trial/Judicial Experience:**

### **A. Describe the extent of your jury trial experience, if any.**

I have handled misdemeanor and felony criminal jury trials to obtain the know-how and experience to do so. I have a multi-day criminal felony jury trial with multiple felony counts (drugs and firearms and a habitual offender count) set in October 2015. I also obtained extensive jury trial knowledge by handling appeals of civil jury losses and criminal jury convictions. I have the requisite experience in this area to serve on the Indiana Court of Appeals.

### **B. Describe the extent of your bench trial experience, if any.**

Through the course of more than 20 years in practice, I have handled several thousand hearings in state courts across Indiana of 1-3 hours. I have handled several dozen of 1-5 days in duration, some consecutive and some on different days. While my office is based in Indianapolis, I actively litigate cases across the state, from Elkhart to the north, Jasper to the south, Richmond to the east and Terre Haute to the west.

This gives me a good working rapport with the judges and the varying courtroom practices, customs, and other differences that exist. All of this makes me a better lawyer. In addition, it provides me with knowledge of cultural and value differences that are necessary to being the best teacher and trial attorney I can be. Moreover, I believe these are critical to being a Court of Appeals judge for three reasons.

First, since no trial is perfect, the Court of Appeals has to serve as a vehicle to demonstrate that due process was provided. Second, at the same time, it must balance this duty with support for Indiana's trial-court judges. Third, in the non-routine cases that raise novel issues — those of first impression or policy matters — it must develop panel decisions for ultimate resolution by the Indiana Supreme Court.

Against this backdrop, the Court of Appeals will be the primary Indiana appellate court addressing the complicated issues now presenting in our society (i.e., individual privacy and breaches in this digital age; search and seizure with drones and passive surveillance being a societal norm; and third parties raising natural parents' children). I believe these appellate decisions will shape our state and may well provide a beacon for businesses and individuals as they consider remaining in Indiana or moving here to live and work.

Furthermore, in the context of gun law and appellate practice, I have advised and consulted with attorneys across the United States on specific cases; written drafts of potential motions, memoranda and appellate briefs; served as a trial consultant during trials; and, in gun cases, have started to work as an expert witness, most recently for the defense in a federal gun prosecution in Florida district court.

These hearings/trials I have handled and/or tried extensively are concentrated in the following areas:

- Personal injury (e.g., auto accident, molest/abuse).
- Family law (e.g., dissolution/paternity [establishment], custody modification, relocation, contempt, third-party custody rights, jurisdictional questions).

- Real estate (e.g., condemnation, inverse condemnation and property boundary disputes).
- Criminal (e.g., firearms, drugs, murder and lesser included offenses, suppression, and post-conviction relief).
- Protective orders (i.e., challenge/defense).
- Complex business litigation (e.g., multiple plaintiffs or defendants, cross and counter claims, and those with interstate dimensions and/or where there is a great power imbalance between counsels and their clients).
- Governmental litigation (i.e., taking, real estate, and breach of contract).
- Contract disputes (e.g., injunctive relief, damages, and enforcement).

Further, I have represented client in several different types of administrative proceedings; these stemmed from complaints regarding their professional licensing, and, if tried, were heard before (administrative) law judges of the following Indiana administrative agencies:

- Medical Licensing Board.
- Respiratory Care Board.
- State Board of Nursing.
- Disciplinary Commission of the Supreme Court of Indiana.

Finally, I have represented several clients before Administrative Law Judges (“ALJ”) at the Indiana State Police as to proposed revocations of their Indiana License to Carry Handgun or denials of application for this license.

**C. If applicable, describe the nature and extent of your judicial experience (including as a judge pro tempore). Include a description of your experience presiding over jury trials, if any.**

I served as judge pro tempore in Judge Anthony Metz’s (civil) court in 1995 through 1996. This opportunity ended when Judge Metz was appointed to the federal bench in 1997. With his guidance, I learned the key dynamics of sitting on the bench and working through a trial judge’s docket.



This experience afforded me the opportunity to observe the difficult role that judges play in cases where the evidence is undeveloped and in having to decide a case. An attorney has a much easier task in advocating for only one litigant in the dispute. This would be an invaluable lesson I would carry with me into the Indiana Court of Appeals.

Due to this and other diverse legal experiences, I have been consulted with by judges on changes in their courts and in the practical implications. For instance, when Alicia Gooden established the first full-time paternity court in Indiana, I was one of the attorneys she consulted with as she made decisions about the most effective court administrative functions and processes for attorneys. Equally, former Judge Robyn Moberly asked me to serve on a panel to address the problem of *pro se* litigant representation in domestic litigation.

**6. Professional Experience:**

**A. If applicable, list up to five trial or appellate briefs and/or judicial opinions you have written. Refer to them by caption, case number, and filing date.**

I have approximately 40 reported appellate decisions in the Indiana Court of Appeals, Indiana Supreme Court or Seventh Circuit Court of Appeals. In addition, I have approximately 70 unreported or memorandum decisions from the Indiana Court of Appeals. I have orally argued cases before the Seventh Circuit Court of Appeals, Indiana Supreme Court and Court of Appeals. I have prepared two Petitions for Certiorari for the United States Supreme Court.

I believe the litmus test of good writing is being able to synthesize complexity and reduce its essence to be most effective for the client's desired outcome, considered with the finite time that a court can spend on a case given busy trial and appellate court dockets. Obviously, as a candidate for judicial appointment onto the Court of Appeals, I understand that reducing a complex concept into a few words is key to being an effective appellate advocate; and this would directly translate into being an effective Court of Appeals' judge.

My legal research, analyses and writing skills are finely honed and are the essence of the position I am seeking on the Court of Appeals. I am proud of my work. I have selected a few briefs as writing samples, along with the complete enumeration of reported or unreported decisions set forth in my CV. I chose briefs that reflect what I believe are complex factual and legal cases, some with complex procedural histories, including novel appellate approaches to challenge cases that would otherwise have less chance of a favorable appellate outcome. I have selected and summarize five (5) briefs that reflect the breath of my legal experience:

*In re the Paternity of K.D., TN v. B.D.*, 929 N.E.2d 863 (Ind.Ct.App. 2010). The important issue in this case is this: when a matter is confidential, and a litigant disagrees with a trial court, to what extent can he/she make public statements? I selected it, in part, because it was successful on a First Amendment challenge. The COA reversed a trial court's order that prohibited the mother from discussing the case in any fashion with anyone; and held that it was overly broad and an invalid prior restraint on the mother's free-speech rights. **(Exhibit "4:" Brief and Decision of the Court of Appeals)**

*Town of Cloverdale v. Renner, et al.*, 901 N.E.2d 524 (Ind.Ct.App. 2009). I selected this government annexation case because it is one that involved significant factual and legal complexity (given the claim that was filed more than a decade after the Town of Cloverdale adopted a resolution considering annexing certain property), along with being a case where I represented a governmental entity. The COA reversed, finding that the one-year statute of limitations for owners to file a complaint against Cloverdale began running after the town passed the first ordinance regarding annexation, reversing the trial court's order of dis-annexation. **(Exhibit "5:" Brief and Decision of the Court of Appeals)**

*Whitman v. Denzik*, 882 N.E.2d 260 (Ind.Ct.App. 2008). This real property case involves the "driveway dispute" and the interplay of summary judgment in that the trial court granted the Denziks' cross-motion for summary judgment, granting them a prescriptive easement. This case involved complexity in drafting a factual brief (i.e., creating a mental picture of the real property dispute in question) that gives an accurate view of the parcels in question, factual-legal analysis involved with passage of time, predecessors-in-interests, and propriety of summary judgment on such factual basis. The key to the holding is that the neighbors' predecessors in interest adversely used the road, allowing the COA to affirm summary judgment. **(Exhibit "6:" Brief and Decision of the Court of Appeals)**

*Cooper v. State*, 917 N.E.2d 667 (Ind. 2009). In this matter, the trial court revoked a defendant's probation without first conducting a hearing to determine if there was a preponderance of the evidence showing defendant violated his probation (VOP). The argument was without a hearing, it violated his due process rights and constituted fundamental error. By arguing the fundamental error doctrine, a belated appeal could potentially lie. The COA agreed and reversed.

I also selected this case because it was one I argued before the Indiana Supreme Court on the Attorney General's request for grant of petition to transfer. In the ISC, the legal issue was framed as being de facto ineffective assistance of counsel versus due process, both issues of competing constitutional dimension. The Indiana Supreme Court reversed and found Mr. Cooper was not entitled to grant of a motion to reconsider, noting other relief available to Mr. Cooper. **(Exhibit "7:" Brief and Decision of the Indiana Supreme Court)**

*Miller v. Duncan*, 928 N.E.2d 648 (Ind.Ct.App. 2010). I selected this medical malpractice case to illustrate the depth of my appellate writing and legal practice interests. This cases embraces not only the concept of a jury trial, but also complexities of a medical malpractice case, correction of statements made to a jury, and appellate waiver. **(Exhibit “8:” Brief and Decision of the Court of Appeals)**

**B. If applicable, list up to five legislative drafts or court rules you have written or to which you contributed significantly. Refer to them by official citation, date, and subject matters.**

I have substantial and extensive indirect experience with this process.

Drafting Legislation

I have been active on the legislative front at various times in my career. In 1995, the Indiana State Bar Association (“ISBA”) requested I testify on its behalf before the Senate Judiciary Committee on proposed legislation that would link timely payment of child support with visitation (what is now referred to as parenting time). This was opposed by the ISBA because the custodial parent could use it to arbitrarily deny visitation. This legislation failed.

Following publication of my first Indiana-specific firearms book in 2004, *Indiana Handgun Law*, I have been regularly involved on the legislative front. I am frequently consulted by members of the Indiana House and Senate on drafting and proposing firearms legislation, along with foreseeing its actual impact as introduced and before being passed in final form. I have also worked closely with the Indiana State Rifle Pistol Association, National Rifle Association and National Shooting Sports Foundation.

I was heavily involved in major pieces of firearms legislation, including state-based pre-emption, “bring your gun to work” legislation, and castle doctrine.

I was consulted regarding the potential impact of several other bills: HB 1065 (firearms in locked vehicles) in 2010; SB 154 (firearms in off-road vehicles or snowmobiles) and SB 506 (handgun possession) in 2011; SB 1 (castle doctrine) in 2012; SB 2013 (public safety officers for schools), HB 1563 (hunting with silencers, switchblades and shooting range protection) and SB 555 (reciprocity) in 2013; SB 2 (possession of firearms by judicial officers) and SB 229 (gun buyback) in 2014; and SB 98 (lawsuits against gun manufacturers) in 2015.

My role has largely focused on legislators making changes to and/or passing laws that are not riddled with ambiguity and problematic for enforcement. To this end, I have

testified before various legislative committees, including conference committees trying to reconcile differences between House and Senate versions of bills.

In addition, over the past several years, I have fielded answers to legislators' constituents' questions sent to me by their legislative assistants. Related, I have provided members of the General Assembly with the most current versions of my books, which address what the law is to a statistical certainty, with ambiguities addressed to the law-and-order side of the equation. While I have my personal positions, these do not carry over into my counsel, teaching, or written works. I am focused on education, which is advanced by clearer laws for the judiciary to apply.

My appellate cases also reflect my involvement with the legislative process in the application of acts of the General Assembly *after* they are codified into the statutes. Where a statute is ambiguous, I have been involved in several appeals. For instance, in *MacLafferty v. MacLafferty*, 829 N.E.2d 938 (Ind. 2005), the Supreme Court, reflecting on the legislature's express statutory words, ruled that except where a parent's change in circumstances was so substantial and continuing as to make the current order unreasonable, a child-support order could not be modified within one year. **(Exhibit "9:" Brief and Decision of the Supreme Court)**

In ruling, the Supreme Court stated that to give effect to the legislature's desire to limit "vexatious litigation which accompanies dissolution of a marriage," a year had to pass and a parent's income had to change so much that his or her obligation under the Child Support Guidelines would change by 20 percent. This case limits vexatious litigation, preserves judicial resources, and gives meaning to the separation of powers and who makes respective decisions thereunder.

In a recent case under the Adoption Act, the Supreme Court faced a question of statutory interpretation and had to determine what the General Assembly meant by "lawful custody." **(Exhibit "10:" Brief and Decision of the Supreme Court)** Any person who had "lawful custody" of a child subject to an adoption proceeding had to be given legal notice of any adoption. The legal issue presented was whether *de facto* custodians had "lawful custody" and have to have legal notice or if this only applied to a person with "legal custody."

Based on long-term custody of B.C.H. by third parties, who happened to be B.C.H.'s grandparents and who had been adjudicated *de facto* custodians, the Indiana Supreme Court held these grandparents were exactly the type of caregivers the General Assembly had in mind when they chose the term "lawful custody" over "legal custody" under the Adoption Act, and were exactly who the legislature thought would be in the best position to tell a judge presiding over an adoption proceeding about the child in question and about the child's best interests.

This case has strengthened the legislative branch and legal concept of separation of powers, as well as helped families; stated differently, this case illustrates the careful considerations needed in the drafting of legislation and the role of the separate branches of government, and it provides protections for Indiana's children to ensure their best interests are met.

I believe I possess the necessary understanding of the drafting of legislation, the workings of the legislative process and the role of the courts under the separation of powers to perform an excellent job as a judge on the Court of Appeals.

#### Drafting Court Rules: Trial Rules (Rules of Court)

I also have helped define the meaning and application of the Indiana Rules of Trial Procedure in practice to the ends of justice. I have handled a number of appeals that have clarified or applied trial rules for the betterment of the bench and bar. Two recent cases involving appeals for the same litigant illustrate the point, and were decided and handed down in succession in May 2014.

In the *Paternity of V.A.*, 10 N.E.2d 61 (2014), the Court of Appeals addressed and decided the interaction between Indiana Trial Rule 76(B), which gives litigants the right to a change of judge, and Indiana Trial Rule 63(A), which requires a judge who hears evidence, if available, to make all ruling related to that evidence. **(Exhibit "11:" Brief and Decision of the Court of Appeals)** The case decided that the substitute judge's jurisdiction applies prospectively such that the original judge who heard the case was required to resolve unresolved issues on remand. This will have a bearing directly on when and if parties seek to change a judge, decreasing ambiguity in the law and making for effective counsel while likely preserving judicial resources.

Also addressing jurisdiction under the trial rules, in the *Paternity of V.A.*, 10 N.E.2d 65 (2014), a father filed a petition to modify custody while an original custody decision was pending. **(Exhibit "12:" Brief and Decision of the Court of Appeals)** The COA affirmed the trial court's dismissal for lack of jurisdiction. In this case, the Court of Appeals appears to have drawn key distinctions for litigants and practitioners. However, any emergency custody petition could still be heard by the trial court. This will significantly clarify when the trial court has jurisdiction in a custody case while an appeal is pending, again bringing clarity to the law and making lawyers better able to advise their clients.

As it relates to other practice rules adopted by the Supreme Court, in *Cohoon v. Cohoon*, 770 N.E.2d 885 (Ind.Ct.App. 2002), the COA addressed a provision of Indiana Dispute Resolution Rule 1.6 that permits a trial court to order "any civil or domestic relations proceeding" to binding arbitration "only upon agreement of the parties." **(Exhibit "13:" Brief and Decision of the Court of Appeals)** The parties had contracted

for this provision under their settlement agreement. A dispute arose; the trial court refused to order the case to binding arbitration. The Court of Appeals found this provision violated public policy, affirming the trial court.

The Indiana Supreme Court, 784 N.E.2d 904 (Ind. 2003), granted transfer. The ISC found binding arbitration in post-divorce matters was one that did not have to be decided at that time. **(Exhibit “14:” Brief and Decision of the Supreme Court)** Ultimately, these cases paved the way for rules for binding arbitration provisions to be adopted in domestic cases, another of the diverse tools available under Indiana law to resolve domestic disputes.

I have also been involved with the application of criminal rules under the express language of the rule in question. For instance, in *State v. Penwell*, 875 N.E.2d 365 (Ind.Ct.App. 2007), the appeal involved the application of Indiana Rule of Criminal Procedure 4. **(Exhibit “15:” Brief and Decision of the Court of Appeals)** The issue presented was whether the time for denial of certiorari to the United States Supreme Court was chargeable to defendant, underpinned by the constitutional right to a speedy trial. This case helped define the complicated computation of time that is chargeable to the state versus the defense.

I am able to meet the demands as judge on the Court of Appeals in addressing civil and criminal appeals and in developing and implementing rules.

#### Drafting Court Rules: Local Rules

Early in my career (the mid-1990s), I decided I wanted to handle cases throughout the state to experience local customs and practices and the varying political orientations of local communities. As I did so, I soon discovered that there was no compilation of local rules, nor any uniform place to obtain such court rules. I also learned that many local rules were unwritten, but needed to be followed to be a good advocate and to be respectful of the court.

I discussed this issue with our Bureau of National Affairs (“BNA”) representative, Scott McIntire, and the publishers at the company about working with BNA to produce such a publication. However, it was not viable at the time. I exercised great care to attempt to procure and follow local rules in courts I practiced in. That resulted in decisions, including appellate cases, clarifying and applying local rules.

For example, in *Fuchs v. Martin*, 845 N.E.2d 2d 1038 (Ind. 2006), the trial court ordered that for any future custody or visitation disputes, the parties must attempt to submit to mediation with either Susan Macey or David Rimstidt at VanWinkle Baten & Rimstidt Dispute Resolution. **(Exhibit “16:” Briefs and Decisions of the Court of Appeals and Supreme Court)** This was consistent with Marion Circuit and Superior

Family Law Rule 2(H), which required parties to submit all contested final hearing issues requiring two (2) hours or more of court time and all non-contempt post-decree child-related issues to mediation before court.

On transfer from the Court of Appeals, 836 N.E.2d 1049 (Ind.Ct.App. 2005), the Supreme Court rejected Mr. Fuchs' argument that this violated constitutional access to the courts under Article 2, Section 12 of the Indiana Constitution, since the trial court could still elect to hear emergency matters and such local rules were allowed under Indiana Trial Rule 81(A). This case balanced the constitutional right to access to the courts, the number of domestic cases on civil dockets, and the interplay of local rules and trial rules; additionally, this case made the law clearer in terms of attorneys advising their clients and in effective use of judicial resources.

I am adept at drafting, analyzing and otherwise handling cases involving local rules and trial rules, along with the interplay that might be raised between all such rules of the Indiana Supreme Court, statute, case law and administrative rules.

**C. If applicable, list up to five of your contributions to legal journals or legal publications. Provide the official citations, and brief description of the subject matters.**

I write and publish extensively on several topics. All my publications are identified and listed in my curriculum vitae, provided with this application. What I view as the most significant writings to span my legal career, I address in this section of the application for the Commission.

In 1996, I had published “When to Advise Your Client to Consult a Bankruptcy Attorney” in the American Bar Association’s *American Journal of Family Law*. This article is significant in that it highlights what to do as lawyers when defined practice areas, such as family law, intersect with other areas of law, such as bankruptcy. The ability to identify and manage cases in multiple areas of law is why I know that I would be an effective judge on the Indiana Court of Appeals.

I write extensive materials for CLEs I teach. The most recent such materials I have written, for one section of a one-day National Business Institute CLE, *Gun Law in Indiana*, taught on April 17, 2015, are provided with this application and reflect more than a decade’s worth of research and practice in state and federal firearms law. **(Exhibit “17:” Selected NBI Materials on Gun Law)**

On the state level, my third firearms publication, *Indiana Firearms Law Reference Manual* (3<sup>rd</sup> Edition), is my most comprehensive work and weaves the wide range of state and federal law into one manageable resource. It is the text I am most

proud to have authored. I have enclosed a few pages of the text for your review. **(Exhibit “18:” Selected Text from Indiana Firearms Law Reference Manual)**

In the last few years, many states have entered into interstate compacts to allow citizens of one state to carry a handgun in another state and to recognize or have reciprocal licensing. Also, after the Sept. 11, 2001, attacks, the Congress believed it was a good use of police officers' training (all have base constitutional training and qualify with firearms) to allow off-duty police officers to carry firearms in other states. This was adopted into law by the Law Enforcement Officers Safety Act of 2004 (HR 218). Such off-duty officers must follow certain state, local and private property requirements. This effectively makes an off-duty officer carrying as if he/she were a civilian with a reciprocal license. This change created a great need for a specifically designed guidebook, *Gun Laws by State*, which I wrote and which now is in its fourth edition (2015). I have enclosed a few pages of the text for your review. **(Exhibit “19:” Selected Text from Gun Laws by State)**

My most significant national teaching and written works in firearms law are my materials for the 17<sup>th</sup> Annual National Firearm Law Seminar, which I wrote for a national audience of attorneys at the 2014 Indiana-based NRA annual convention. I, along with Justice Steven David, were the only Indiana presenters selected for this presentation at the national convention. I also recently completed co-authoring a section of text for Aspatore Books, a Thomson Reuters business (West), titled *Strategies for Defending Firearms Offense Charges* (2013). My written section from this text as well as the firearm law seminar materials are included for your review. **(Exhibit “20:” Selected Text from NRA CLE and West Chapter on Gun Crime Defense)**

**D. Identify the five most significant legal matters entrusted to you, whether as a judge or lawyer, and describe why you believe these to be so.**

Looking back over the span of twenty years, I can vividly remember certain cases or matters that shaped me personally and professionally and defined my client as they closed a painful legal chapter in life. Clearly, these cases drove me to spend my Saturdays, Sundays and nights working on this application — to get it just right. I work to write exactly what I want to say, and do it with precision.

I hope these five vignettes capture these moments in my (former) clients' lives and reflect upon my representation to “tell” you who I am, what I stand for, and the qualities I would bring to the bench if nominated by the Commission and appointed by the Governor to the Court of Appeals of Indiana.



### **1). “The little girl with the red balloon.”**

About 20 years ago, I was a freshly minted attorney handling “dissolutions” and family law. When I began, I sort of knew that when you divorced, you argued some and split your stuff up; and the children spend time between the parents.

I had no idea what was to come. In a case that spanned clerking to being sworn into the bar, a little girl was removed from Asia by her father during a domestic dispute with his wife and secreted in the Indianapolis area. When her whereabouts were discovered and she was placed by CPS on an emergency basis, her mother hired the family law attorney I was working for and flew across 12 time zones to get to Indianapolis. This would be a defining moment for me and for my legal career.

I thought it was so interesting to be able to delve into international law, so I readily agreed to assist with the case in any way I could. That is before I realized that a court order in a different language had to be translated, and that when it is midnight here, it is noon and lunchtime for local counsel halfway across the world.

Sleep-deprived from talking with co-counsel through his heavy French accent several time zones away, I had no choice but to learn the Hague Convention on the Civil Aspects of Child Abduction; get a hotel room for the client on the weekend of the Indianapolis 500; and, at the same time, file the case such that the child could leave with her mother and return home in few short days.

This experience taught me that law is not a job, but a way of life. It does not happen on a 9 a.m. to 5 p.m. schedule. Being a lawyer is indeed a great deal more than what occurs in the courtroom — it can mean being the bellman and sympathetic ear at all hours of the day or night. It is not orderly, but messy; and no class or case law or statute can teach you how to juggle it all.

It was not until I witnessed this young child reunited with her mother, L.T. — from *my* efforts and from that of supervision by the seasoned attorney I worked for and a good court and laws — that I understood what being a lawyer and “the law” is all about: it is life itself. The last memory I have of L.T. and her daughter is of the two of them walking into the sun to the west in Downtown Indianapolis to catch a cab to the airport, the child wearing a sundress and holding a small red balloon tethered to a thin white string floating in the wind.

No matter what part of the world they claim as home today, they know, and I know, that complex life problems are solved in Indiana courtrooms.

**2). “You don’t know what you don’t know.”**

Outside of family law cases, which involve people's children, and to that extent our future, I believe one of my most significant achievements in legal matters entrusted to me — if not the most significant legal contribution of my career — is being accepted by Hoosiers as an authoritative resource for compiling and explaining Indiana and federal firearms law.

I grew up around firearms, had an informal shooting group in law school and always had deep respect for the power of a firearm, to literally take life, coupled with a profound respect for the rule of law. About 15 years ago, I began doing legal research to answer my own questions on firearms law. That soon led me on a journey I am still on today, and to write books that organize state and federal statutes, case law, and administrative rules and regulations to help individuals follow the law or seek to change it. My most current Indiana text is *Indiana Firearms Law Reference Manual* (3<sup>rd</sup> Ed.) and *Gun Laws by State 2015*. I strive to make my writing apolitical, with any ambiguity resolved to the law-and-order side of the equation.

Most readers are shocked at what they did not know or believed as a matter of urban myth. My state books are widely used in Indiana and referenced by individuals ranging from lawyers to police officers. I take this matter seriously and am honored to play a role in making the law more understandable. I am also consulted by police departments and members of the General Assembly to teach law or to opine on proposed legislation. I teach CLEs on gun laws across the country.

My objective is simple: if my work avoids one mistake as to lawful versus unlawful act or loss of life, I have met my goal.

**3). “We the People of the United States [to] establish Justice.”**

In private practice, clients (often) measure their lawyer in terms of winning or losing their case. The best lawyer is only as good as the legal system he or she practices in; the American legal system is the best in the world. This is only the case because the judicial, legislative and executive branches are anchored in, and flow from, directives and prohibitions set out in the United States Constitution, the oldest and shortest constitution of any major government in the world today.

To mitigate the risk of the legal system becoming dissipated in terms of constitutional protections and to maintain lines of power within all branches of our government, constitutional claims must be made. However, violations of constitutional rights are among the most challenging and difficult to prevail on in court. In order to have the privilege of making such claims, an attorney must develop a substantive

professional profile and forge a strong client relationship to have the authority to make this argument of many.

I have been deeply moved and professionally enriched to have several clients allow me to make such claims. This is my part in maintaining our constitutional government and, simultaneously, working to the best of my ability to meet my client's given objectives. I believe these cases, which are often cast in single arguments, win or lose, are among the most significant legal matters entrusted to me. I selected three representative cases, one civil and two criminal, as the latter can involved the deprivation of freedom interests (and life), to demonstrate this point:

In *Paternity of K.D.*, 929 N.E.2d 663 (Ind.Ct.App. 2010), the trial court prohibited mother T.N., from discussing any aspect of her child custody case, in particular the handling of the case by the judge, with the media. **(Exhibit "4")** On appeal, I argued this was violation of the First Amendment right to free speech. The Court of Appeals agreed, and found the trial court's order was over broad and an invalid prior restraint on mother's free-speech rights. The case made the national media case law reporter and strengthened the freedom of the press as well.

With *Malone v. State*, 882 N.E.2d 784 (Ind.Ct.App. 2008), the trial court denied Mr. Malone's motion to suppress the evidence, namely a handgun he was found to be carrying during a pat-down that occurred on the front porch of his home. **(Exhibit "21:" Brief and Decision of the Court of Appeals)** On appeal, I argued this was not a case that involved the less-strict *Terry* stop-and-frisk rule applicable to police-citizen encounters on the street, such as a routine traffic stop. Instead, the case implicated Fourth Amendment as a search that required a warrant or exigent circumstances, which were not present in this case. The Court of Appeals agreed and reversed. This case plays a key role in defining *Terry* stops from searches and seizures on private property that require a warrant.

In *Cooper v. State*, 917 N.E.2d 667 (Ind. 2009), the Indiana Supreme Court decided that a motion to reconsider is not a substitute for a timely appeal, even though the trial court violated the defendant's right to due process by revoking his probation without an evidentiary hearing. **(Exhibit "7")** In other words, a defendant cannot appeal a revocation of probation based on the propriety denial of a motion to reconsider where he or she did not timely appeal. The remedy is post-conviction relief in accordance with the appellate and post-conviction rules. This case demonstrates that rules exist to ensure an orderly trial process, appeal, and/or post-conviction are required and must be followed.

#### **4). "One of the oldest and largest gun shows east of the Mississippi."**

Perhaps the most enjoyable and significant legal matter I fulfill in an ongoing capacity is the role of general counsel to the Indy 1500 Gun & Knife Show, held at the

Indiana State Fairgrounds five times a year. As one of its signature announcements, vendors and visitors are reminded that it is one of the oldest and largest gun shows east of the Mississippi. This status has little to do with the simple fact that it is a gun show. Instead, its strength and size is a testament to the strong organizational and promotional skills brought to bear on a large group by talented owners. For me, the ability to analyze legal matters associated with a diverse group of people, in more or less real time, reflects the wide range of experiences private practice had afforded me and allows this event to operate flawlessly.

Over the years, I have addressed every matter from lost and found firearms and how such are disposed of, to contract negotiation and insurance review, to copyright infringement. I find that some of the most successful companies, both large and small (like the Indy 1500), have as their backbone good legal counsel. This allows them to identify legal issues before they become problems, and before they become so intractable that they are a death-knell to a company. This representation shows the real benefits that a good corporate lawyer may bring to a client and the importance of the rule of law and the legal system.

To have this trust of a client with their business, well, speaks for itself. I will bring this diverse practical and legal focus to the Court of Appeals.

**5). “Conduct, however reprehensible, is not a crime unless the General Assembly has exercised its authority to define it as penal.”**

I have handled several high-profile appeals where the underlying matter shocks and outrages many — if not most — members of our society. Notwithstanding my personal views and beliefs, these are among the most significant legal matters entrusted to me.

Why?

As a lawyer and constitutionalist, I am strong advocate of adherence to the separation of powers and strict construction of statutory laws — particularly those which are penal in nature. Appeals of criminal convictions based on an emotional response of society to reprehensible conduct are necessary to maintain law and to prevent it becoming arbitrarily applied and/or used as judicial activism over the duties of the General Assembly. Without this, each and every one of us would lose our freedom.

Freedom certainly is not free and comes with a price.

*Delagrang v. State*, 951 N.E.2d 592 (Ind.Ct.App. 2011) is one case that represents such a significant legal matter. **(Exhibit “22:” Brief and Decision of the Indiana Court of Appeals)** In this case, Delagrang was charged with voyeurism and

child exploitation in shooting “up-skirt” photos with a shoe camera in public areas of a mall. Delagrangé moved to dismiss these charges, arguing they were not penal in nature.

The trial court granted the motion as to the voyeurism charges, but not the child exploitation charges. Delagrangé appealed, and the Court of Appeals affirmed, with dissent that Delagrangé’s activity at the mall was not “sexual conduct” as defined by the General Assembly. Ultimately, the General Assembly amended the statutes to account for this behavior and make it criminal.

Certainly, this type of representation is burdensome to society, the lawyers and courts, but ensures the law remains uniform and fairly applied and that the separation of power works — exactly as it did in this case. I am proud to play a small role in helping develop Indiana law in this arena. Taking on a case associated with public outrage and being a good advocate ensures the legal system is available to all of us; and these cases are some of the most significant ones entrusted to me: I have to earn the trust of the client and ensure him or her in my acts and the litigation process I am not judging him or her or applying less than my best legal efforts.

**7. Efforts to Improve the Legal System, Administration of Justice, or Society.**

**A. Describe your efforts, achievements, or contributions (including written work, speeches, or presentations) toward the improvement of law, the legal system, or the administration of justice.**

Since my admission to the bar in 1994, I have offered to teach topics of legal interest to any social or civic group that wanted a lawyer’s perspective on issues of importance to their group. These include topics ranging from long-term care to legal tools available to employers to address threats and violence in the workplace.

In the past decade, I have focused on teaching family and firearms law.

With family law, I have taught CLEs across the state on broad topics, such as the basics of family law litigation to more limited practice topics such as the application of the UCCJA and interstate collection of child support. I also have been honored to be invited to teach about new and emerging family laws. These include the change of the child custody modification statute from “substantial and continuing” to “continuing” and the new relocation notice statute. In addition, I have moderated a panel of family law judges.

I have taught approximately 30 family law CLE courses throughout Indiana. In addition, I have handled numerous family law appeals, including oral arguments in the Indiana Court of Appeals and Supreme Court. I recognize domestic cases account for a significant total of the entire civil docket of Indiana trial courts and am equipped and

prepared to work with other panel member on the Court of Appeals' with diverse and independent views in handling and deciding these inherently problematic cases.

I have been instrumental in establishing firearms as an independent legal practice area. To this end, I have traveled to a number of venues and taught firearms law — explaining what the law is to a statistical certainty — educating individuals and groups that want this critical information to help their members follow the law or effectuate change.

Over the past several years, I have authored three Indiana-specific firearms law books that are used by members of the public and attorneys throughout Indiana. I have advised members of the General Assembly on the implications of proposed gun legislation and testified before several legislative bodies, including on how to harmonize laws by testifying before conference committees.

Nationally, I have developed a variety of firearms law CLE curricula and taught legal courses based on these. The questions that these have helped to be asked range from unique to obscure and have come from attorneys, citizens and police officers across the United States, covering topics such as reciprocal carry or off-duty police officers carrying firearms in other states under the Law Enforcement Officers Safety Act of 2004.

I can address these questions whether they are considered easy or extremely complex. I wrote and continue to produce an annually updated book on national and state firearms laws, titled *Gun Laws by State*. This material is used as a basic guide for anyone questioning state-level firearms law. It is also updated in real time on a reference website with changes that occur during the year and in between publications. Most recently, I co-authored an Aspatore (West) manual for criminal defense attorneys who are defending firearms charges.

As it relates to firearms law, I have taught more than 10 complex state and federal CLE courses in Indiana and across the country. I have qualified in federal court as an expert witness in gun and gun-part identification. I have taught lay groups ranging from police officers to security directors for large public (Fortune 1000) companies and private institutions.

My ability to interact with and explain complex legal concepts in simple, easy-to-understand ways, in both oral and written form, will make me an excellent representative of the Indiana Court of Appeals. Indeed, I will grow more professionally in working with and learning from the other distinguished members of the Court of Appeals.

**B. Describe your efforts, achievements, or contributions (including written work, speeches, or presentations) concerning civic, political, or social issues.**

My efforts and contributions to civil, political, or social issues are discussed throughout this application. I have limited my scope of contribution consistent with the size of my firm and available time limits. These have largely focused on the core right to keep and bear arms and the fundamental right to raise one's family, intermixed with specific requests and areas of need or personal interests.

I have worked relentlessly on writing and teaching domestic CLEs. A better understanding of the law by Indiana's practitioners makes for better-educated clients and legal decisions, minimizing the many harms of divorce and other breakups of family units on children. I have taught throughout the state about any CLE topic I have been asked to address. I also take the time to speak with and communicate by phone and email with attorneys regarding questions about their clients' cases.

My biggest contribution is to the core right to keep and bear arms under the Second Amendment and Article 1, Section 32 of the Indiana Constitution. I am a strong advocate for understanding the facts about gun issues, including gun crime, as opposed to urban myths or scare tactics. To that end, I teach and write based on substantiated facts, such as the Federal Bureau of Investigations' Uniform Crime Reports, and the root causes of gun crime, such as mental illness. As a part of what I do and believe significant to gun law development, I strongly and always advocate for safe gun handling and training for everyone.

With this approach, I am able to bridge the polarized positions on both sides of the great gun debate. Such an open dialogue will ultimately result in lower levels of crime and in common-sense laws, not some "law" made on emotion following a tragic matter that oftentimes obscures the underlying root causes, again such as mental illness, addiction and poverty.

This is the way our society can collectively move forward, as it is a certainty that firearms will remain in private ownership into the distant future, given the sheer number of privately owned firearms. There is at least one firearm for every man, woman and child in the United States, and it is a \$30 billion industry.

Thus, with this issue of great emotional, social and political magnitude, I will handle cases on the Court of Appeals by careful adherence to the separation of powers, but all while rooted in facts and statistics. That is what I view as the role of a neutral and detached judiciary. I will apply this same template of fact, law and education to all cases I am presented as a judge on the Court of Appeals.

**C. Describe your efforts, achievements, or contributions (including written work, speeches, or presentations) to improve your local, state, or national community through charitable work or public service.**

My efforts, achievements and contributions (including written-work speeches and presentations) to improve the local, state, or national community through charitable work and public services are discussed throughout this application. I make myself available to any group, generally free of charge, to discuss legal issues with them and give them a law-and-order perspective.

By way of recapitulation, I have limited my scope consistent with the size of my firm. Here are some of the biggest career highlights in this arena:

From the beginning of my career to present, I have continuously taught CLEs or published materials to aid attorneys in representing clients in all walks of life. Some of these tasks, such as initially organizing firearms law, where it had not been done in a cohesive fashion before, required thousands of hours of work. Again, if this makes our society able to better understand the law, follow it or effectuate changes to it, it has been worth the effort. In addition, I have contributed significant time to helping citizens across the state understand the strict limitations on the Castle Doctrine and that human life is more important than a legal right if faced with options.

My CLE preparation and teaching and other contributions to our state are stated in detail in other places in this application.

Representative of recent activities, I have been involved in the following:

In 2014, I helped the Boy Scouts of America (Central Indian) organize their first sporting clays-shooting event fundraiser.

In 2013 and 2014, I dedicated numerous hours to promoting the NRA national convention coming to Indiana, as well as to preparing written materials to present at the national CLE offered at the convention.

From 2007 through 2010, I worked as a contract appellate public defender through the Marion County Public Defender Agency, Appellate Division. In this capacity, I handled vastly complex criminal appeals, including a double murder involving the stray-bullet killing of a nine-months-pregnant woman who was waiting on a pizza in her apartment. This made me better at firearms law and provided a much-needed service to Indiana's criminal population.

**D. Describe the nature and extent of any *pro bono* legal services you have contributed.**

At various times, I have taken active steps to provide legal services in some way to those who cannot afford it, consistent with how my skills and abilities may be best



utilized. Presently, I try to make the most of my abilities by working with larger groups of people. Most recently, I spent several hours preparing for and working through child-support issues with WRTV's Kara Kenny (Feb. 5, 2015) in an online question and answer session.

Over the years, I have taken on clients who I have represented for no cost or little cost, generally over a long period of time. Typically, these clients have mental-health issues, or that dynamic is present in the case in some way. The most recent was B.D., who I met initially as a law clerk in 1994 and have represented for more than a decade on various issues as he struggled with bi-polar disorder and was not medication-compliant. For a period of time, I accompanied him on his doctor visits to try to assure him that taking medication was not making him sick.

Another client I did legal work for over several years, E.M., had been a victim of domestic violence. I was successful in getting her from her abusive home into a shelter and custody. This was at Christmastime, and I arranged for her to have a Christmas: a tree, meal and presents. She stayed in the local area for years, but had ongoing and significant mental-health issues from the years of domestic violence. I continued to help her be all she could and a good mother to her children.

I strive to make a difference and help each person I work with, whether as *pro bono* or not, to understand the issues they face and how to move on in a positive direction. A big part of being a judge on the Indiana Court of Appeals would be comprised of this focus. I know this from my extensive time in private practice. The right to be heard at trial — and, if necessary, on appeal — helps all litigants, from divorcing parents battling for custody to criminals facing lengthy periods of incarceration with conviction, feel that they are being heard and have a right to the system. An appeal and decision often brings closure, no matter the outcome.

**E. Indicate your experience teaching law. Provides the dates, names of institutions or programs, and a description of the subject matters.**

Throughout life, I have been surrounded by leaders who have shared their time and wisdom with me. This enhanced my knowledge and abilities, and it has fueled my passion for teaching law to give back to the community and help make our state known for the rule of law, and bolsters the view the United States' legal system is the best in the world.

Presently, I spend substantial time teaching lawyers at the state and national level, consistent with my private-practice concentrations in family, appellate and firearms law. The Indiana Court of Appeals would be my final step in this journey.

This said, the specific details of my 20 years of extensive teaching experience are set forth on my curriculum vitae, provided as an attachment with this application. To answer this question in a way that provides insight as to who I am as a person, lawyer, and candidate for the Indiana Court of Appeals, I highlight below what I believe are my most significant teaching experiences with ICLEF, NBI and MyLawCLE.

In addition, to the extent any group is respectful of my calendar and makes advance arrangements, I will travel to them and teach topics of legal interest. This makes for a more informed citizenry and better participation in democracy. Finally, it makes lawyers and the entire judicial branch more accessible to those it serves and provides insights into the important work we all do to make Indiana a great state. Most of my teaching to lay groups, such as police officers and women's groups, are enumerated on my curriculum vitae.

### Domestic Relations

I began formal legal teaching for ICLEF and NBI early in my career. Ultimately, with basic or introductory courses, I successfully reduced the vast and complex statutory schemes underpinning the Dissolution and Paternity Acts to three categories: (1) jurisdictional elements, such as residence; (2) property issues, all assets and liabilities; and (3) child-related matters, such as custody and child support, if this applies.

This model was successful and has been replicated by attorneys across the state as they practice in Indiana's trial courts and explain family law issues to their clients. This legal understanding is crucial to effective representation and providing trial court judges with the key, relevant and material facts they need to decide a case.

My teaching reviews in introductory and intermediate family law CLE courses had consistently high scores, and I was sought out by CLE providers to teach specialty family topics on a continuing basis.

A representative example of a course I have organized and taught is how practitioners handle parental child abduction cases; these cases require differentiating, accessing, and using the Uniform Child Custody Jurisdiction Act, Hague Convention on the Civil Aspects of International Child Abduction; Parental Kidnapping Prevention Act; and/or Center for Missing and Exploited Children. My written materials from CLE courses have been used in other CLEs throughout the United States.

The zenith of my passion and abilities in teaching complex family law topics is reflected in being requested to moderate family law panels, including CLEs with family law judges and the panelists.

The nearly 30 CLEs I have taught in the family law arena are enumerated on my curriculum vitae, provided with this application.

### Firearms Law

I grew up with firearms and have a healthy respect for them. This continued throughout my youth, including competitive shooting through Boy Scouts and earned various NRA distinctions as a child. I hosted informal shooting groups in law school. As such, it was a natural progression to research answers to my own questions with a legal education.

As a law clerk for a civil defense firm and then prosecutor, I was the go-to person for firearms questions. Ultimately, in answering my own questions, I discovered firearms issues permeate almost all areas of law. I have been instrumental over the past 15 years in Indiana and the United States in identifying firearms law as a distinctive cohesive legal practice area.

One of the first CLEs taught in the field in Indiana was one that I “convinced” the National Business Institute to present. It was a success, and the area rapidly became identified as a distinct legal practice area. Since that time, I have taught virtually every permutation of “gun law” in Indiana, although my recent focus has been teaching CLEs on the national level for the largest CLE providers, National Business Institute and MyLawCLE.

At present, I am most active in teaching in this area on a national scale, which I believe speaks volumes about the quality of the Indiana bench and bar. These three key examples speak to my teaching in this area of law and having what I believe is the widest array of legal information and skill. The first is writing a significant section of the Aspatore (West) book, *Strategies for Defending Firearms Offense Charges* (2013). The second is consulting or acting as an expert witness for attorneys and their clients across the United States. Thirdly, I was sought out as a presenter for the 17<sup>th</sup> Annual Firearms Law Seminar at the NRA’s 2014 annual national convention. (**Exhibit “20”**)

Finally, I have taught, for a few hours to an entire day, several CLEs on firearms law or related topics, such as violence in the workplace, for the National Business Institute, MyLawCLE and Park Avenue Presentations. The 10-plus CLEs I have taught on this complex state and federal topic with strong policy/countervailing policy/interpretational issues are enumerated on my curriculum vitae, which is provided with this application.

### Other Legal Teaching

In addition to lay groups set out in my curriculum vitae and groups identified in this application, I have taught other courses when asked, if my schedule allowed. These include teaching Commercial Law I to undergraduates at the Indiana University Kelly School of Business and law to gifted and talented high school students at the IUPUI summer honors program. My teaching is listed on my curriculum vitae, provided with this application.

### **8. Memberships and Other Activities:**

**A. List any memberships and offices you have held in professional organizations, including dates and descriptions of the purposes of the organizations and of your involvement.**

- 2013 to present, MyLawCLE, Florida, board member.

I am a board member for this national CLE provider, and have presented several times on firearms law. MyLawCLE is based in Florida, and it focuses on offering online CLEs across the United States with the best presenters in their respective practice areas.

- 2005-2007, Mill No. 9 Condominium Association, Indianapolis, Ind., secretary and president.

I was on the first Board of Directors for Mill No. 9 Condominium Association. I first served as the secretary, and then president.

- 1985-1987, Greenwood Christian Church Missions Committee, Ind., member and director.

From 1985 through 1987, I was a member of the Greenwood Christian Church Missions Committee. In this capacity, I helped evaluate various Christian organizations across the world for the purpose of providing financial support and/or volunteers to take to different locations for trip-specific projects. These included a wide array of projects, from building a church or school building (or remodel or addition) to operating a medical clinic. I personally participated in six of these trips to Haiti and Honduras. In June 1985, I organized, managed and led approximately 30 people to a remote part of Haiti to build a church building and run a medical clinic. I was in Haiti for nearly one month. Subsequently, in 1986-1987, I became the director of the Greenwood Christian Church Missions Committee and held that position, overseeing a several-hundred-thousand-dollar budget, for a year.

- 1985-1987, Assistant Scoutmaster, Boy Scout Troop 264, Greenwood, Ind.

I grew up as a member of this Church and entered its Boy Scout program as a youth (after Cub Scouts) when it was first established. I was awarded Eagle Scout in 1983 and continued to be involved as an adult until college required that I focus my attention on schoolwork. This is the most significant formative experience in my life.

**B. List any memberships and offices you have held in civil or charitable organizations, including dates and descriptions of the purposes of the organizations and of your involvement.**

I am a lifetime member of the National Rifle Association, Second Amendment Foundation and Gun Owners of America.

**C. List any memberships you hold in social clubs or organizations. If any restrict its membership on the basis of race, sex, religion, or national origin, please describe your efforts within the organization to eliminate restrictions.**

I am not a member of any social club or organization.

**D. Describe your hobbies and other leisure activities.**

My hobbies are reading (non-fiction) books. In periodicals, I particularly like *Monocle*, published in the United Kingdom, as it provides a global perspective of events by authors outside the United States. I also enjoy reading the Wall Street Journal.

In addition, I am a prolific writer and have several books outlined or in partial form at any one time. I also write an annually revised book titled *Gun Laws by State*, which is in its fifth year of publication.

My hobbies are shooting sports, particularly tactical shooting of the semi-automatic handgun. I also enjoy travel. This typically occurs in conjunction with teaching continuing legal education courses across the United States in the ever-developing firearms field or in the field of firearms industry trade shows, or with recreational international travel to virtually any location, as each provides a unique learning experience.

I also get great satisfaction from home DIY projects, from hanging a light to building a deck.

**9. Legal Proceedings.**

- A. List any lawsuits or legal proceedings in any jurisdiction, including but not limited to bankruptcies, dissolutions, and criminal matters to which you have been a party. Provide the dates, case numbers, court, names of other parties, and, if needed a brief explanation.**

*Ciyou v. Doe* (name unknown), 1987, Marion County Small Claims, Center Township, Possession of Real Estate for Rental (I have no recollection of this matter to remove a tenant from a rental home I owned; **Exhibit “23:” 1994 Bar Application, page 4**).

*Universal Mortgage v. Mark and Tamara Adams and Bryan Ciyou*, 1993, 39D05-9301-CP-90 (in rem only to clear title from Adams default; **Exhibit “23:” Bar Application, Attachment, Letter from Attorney R. Lee Money from 1994 Bar Application**).

*Ciyou, Vicki v. Ciyou, Bryan*, 1999, 41 D02-9908-DR-000155, Johnson County Superior Court (uncontested divorced).

*Ciyou, Bryan v. VanWinkle, Julie*, 2011, 77C01-1112-DR-00280, Bryan L. Ciyou and Julie L. VanWinkle, Sullivan Circuit Court (uncontested divorce).

*Brian Hamilton v. Cartwright, Creech, Ciyou, and Ciyou & Dixon, P.C.*, 2004, 49D04-1201-CT-003626, Marion County Superior Court (dismissed).

These are the only cases I remember. It is possible I (we, Ciyou & Dixon, P.C.) have had some claim made in the course of litigation for collection of fees, none that prevailed or with merit.

- B. If you ever have been arrested or cited for violation of the law other than for routine traffic violations, please provide dates, jurisdictions, and an explanation of the law.**

I have not been arrested or cited for any violation of the law other than speeding or tickets.

- C. If you have been disciplined or cautioned, formally or informally, by the Indiana Supreme Court Disciplinary Commission, by the Indiana Commission on Judicial Qualifications, by the Indiana Supreme Court, or by similar entities in any other jurisdiction, identify each instance by date, case number (if applicable), and describe the circumstances and nature of the outcome or resolution.**

Yes, Verified Complaint filed in 2013, 49D00-1302-DI-113, resulting in private reprimand for not disclosing “related case” by failing to check the box on the Appearance Form (**Exhibit “24”**).

**D. If you have any outstanding federal, state, or local tax obligations, please itemize and explain.**

I do not have any outstanding federal, state, or local tax obligations.

**10. References.**

**A. Provide the names of three attorneys who have been your professional adversaries in your practice or who have litigated substantial cases in your court and who would be in a position to comment on your qualifications for appointment to the Court of Appeals of Indiana (contact information to be included in Part Two of this application).**

Deborah M. Agard, Law Offices of Deborah Agard

Judge Lance Hamner, Johnson County Superior Court Judge

Lt. Peter Wood, Esq., Indiana State Police

**B. Provide the names of three professional references other than those listed in Subsection 10A (contact information to be included in Part Two of this application).**

Vernon E. Lorenz, Esq.

Alicia Gooden, Esq., Mediator

Guy Judson, Vice President, Fifth Third Bank

**C. Provide the names of three personal references other than those listed in Subsection 10A or 10B (contact information to be included in Part Two of this application).**

D. Brent Waltz, Investment Banker and Indiana State Senator

David Lasco, Sr., Real Estate Developer

Danny E. Masters, Owner World Class Gun Shows, D/B/A Indy 1500

**11. State Police Release Form and Photograph.**

- A. Complete a State Police release form printed on green paper (you may obtain the release form by contacting the Nominating Commission at 317-232-4706. Include the release with the original application only and not with the copies.**

The original signed release is provided with the original Application in the front file pocket (not copies).

- B. Attach a recent photograph of you to the front of the original application and to each copy of your application. (This allows the Commission members to put a face with a name if you are interviewed in person.)**

A recent attached photograph is attached to the original application and all copies.

**(Note: Reference Letter Received from D. Brent Waltz before Application Filing, Exhibit “25.”)**

April 24, 2015

\_\_\_\_\_  
APPLICANT’S SIGNATURE

\_\_\_\_\_  
PRINTED NAME



